



FILED

6-06-16

04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**COMMENTS ON THE PROPOSED DECISION BY INLAND EMPIRE UTILITIES
AGENCY, PADRE DAM MUNICIPAL WATER DISTRICT, RANCHO CALIFORNIA
WATER DISTRICT, SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,
SWEETWATER AUTHORITY, TERRAVERDE RENEWABLE PARTNERS AND
VALLEY CENTER MUNICIPAL WATER DISTRICT**

JOSHUA NELSON
for BEST BEST & KRIEGER LLP

Attorneys for
INLAND EMPIRE UTILITIES AGENCY
PADRE DAM MUNICIPAL WATER DISTRICT
RANCHO CALIFORNIA WATER DISTRICT
SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT
SWEETWATER AUTHORITY
TERRAVERDE RENEWABLE PARTNERS
VALLEY CENTER MUNICIPAL WATER
DISTRICT

Best Best & Krieger LLP
500 Capitol Mall, Suite 1700,
Sacramento, CA 95814
Phone: (916) 325-4000
Fax: (916) 325-4010
Email: joshua.nelson@bbklaw.com

Dated: June 6, 2016

SUBJECT MATTER INDEX

	Page
I. INTRODUCTION	1
II. ARGUMENT	2
A. SCE Reservation System	2
1. The PD’s Application Process Correctly Recognizes the Timing Issues Faced by Public Projects	2
2. SCE’s Reservation System Should Include Some Mechanism to Use All NEM 1.0 Capacity	2
B. Reservation Systems Should Be Adopted for PG&E and SDG&E	3
III. CONCLUSION	5

TABLE OF AUTHORITIES

Page(s)

State Statutes

Government Code § 4217.10 et seq.4

Public Contract Code § 20560 et seq.4

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**COMMENTS ON THE PROPOSED DECISION BY INLAND EMPIRE UTILITIES
AGENCY, PADRE DAM MUNICIPAL WATER DISTRICT, RANCHO CALIFORNIA
WATER DISTRICT, SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,
SWEETWATER AUTHORITY, TERRAVERDE RENEWABLE PARTNERS AND
VALLEY CENTER MUNICIPAL WATER DISTRICT**

I. INTRODUCTION

These Comments on the Proposed Decision (Comments) are filed on behalf of the Inland Empire Utilities Agency, Padre Dam Municipal Water District, Rancho California Water District, San Bernardino Valley Municipal Water District, Sweetwater Authority, TerraVerde Renewable Partners and Valley Center Municipal Water District (collectively, the Net Energy Metering Public Agency Coalition 2.0 or NEM-PAC 2.0). The NEM-PAC 2.0 appreciates the opportunity to provide these comments and largely supports the Proposed Decision's (PD) reservation system for Southern California Edison (SCE) customers, especially its application requirements for public agencies. However, NEM-PAC 2.0 believes that the SCE system should be modified to include some mechanism to ensure that customers in SCE territory are able to use the full statutory allocation of NEM 1.0 megawatts.

For Pacific Gas & Electric (PG&E) and San Diego Gas & Electric (SDG&E), NEM-PAC 2.0 disagrees with the PD's conclusion that a reservation system would have little utility given how close these utilities are to reaching their NEM cap. This conclusion only focuses on the availability of NEM 1.0 capacity and ignores how this capacity will be allocated among customer classes. A reservation system ensures that commercial, agricultural and other non-residential customers are not at a disadvantage when compared to residential projects. Specifically, without a reservation system, the PD creates a race-to-interconnection that will inevitably be won by residential customers to the exclusion of public agencies, depriving these agencies and their ratepayers and taxpayers of the benefits of NEM 1.0.

II. ARGUMENT

A. *SCE Reservation System*

1. *The PD's Application Process Correctly Recognizes the Timing Issues Faced by Public Projects*

The NEM-PAC 2.0 largely supports the PD's NEM reservation system for SCE customers. Specifically, the NEM-PAC 2.0 strongly supports the PD's application requirements for public agencies to reserve space in SCE's reservation system. As recognized by the PD, public agencies have a more complicated contracting process. It is not fair to require these agencies to submit a signed contract or system ownership agreement to reserve space in the reservation system. As noted in NEM-PAC 2.0's comments, agencies generally do not execute a standard purchase agreement for a customer-owned system. Rather, they contract for design services to develop the project, execute an interconnection agreement and/or evaluate financing options prior to awarding any agreement for construction of the facility. Given this additional complexity, the NEM-PAC 2.0 agrees with the PD that public agencies should be required to (1) provide a signed attestation form and (2) an interconnection agreement. This modified process ensures that public agencies can fairly reserve space in the reservation system, and the NEM-PAC 2.0 strongly supports this aspect of the PD.

2. *SCE's Reservation System Should Include Some Mechanism to Use All NEM 1.0 Capacity*

The NEM-PAC 2.0 does believe that SCE's reservation system should be revised to include some mechanism to ensure that SCE customers are able to utilize the entire statutory NEM 1.0 capacity. The PD requires all projects on the reservation system to connect by the July 1, 2017 statutory deadline. In addition, the PD does not require customers on the reservation system to meet any interim project completion deadlines or milestones. In fact, a customer only loses its reservation if it voluntarily requests that SCE cancel it.

The PD notes that this system is preferable as it ensures that customers are not removed from the reservation system for failing to meet an initial project completion deadline. Specifically, "...avoiding potentially unfair treatment of customers is a more important goal than trying to wring every kW out of the Section 2827 capacity cap, with no assurance of success." (PD, p. 27.)

While the NEM-PAC 2.0 understands the PD's concern regarding initial project deadlines, there is a better alternative to depriving SCE's customers of potential NEM 1.0 capacity: adopting the proposal of PG&E/CALSEIA/SEIA to convert customers on the successor tariff to NEM 1.0 if there is unused capacity. This proposal avoids any concerns about the fairness of initial project deadlines. Customers on the reservation system will have the opportunity to complete their projects by the statutory deadline. However, if they fail to do so, customers on the successor tariff (and therefore already connected) can utilize this excess capacity.

The approach is further justified by the statutory language and intent of section 2827(c)(4)(D). Under this subsection, new customers take service under the successor tariff "[b]eginning July 1, 2017, or upon reaching the net metering program limit of subparagraph (B), whichever is earlier...." This language clearly indicates that the Legislature intended for customers to have the opportunity to utilize the full NEM 1.0 capacity unless there was insufficient interest before July 1, 2017. In this case, the PD imposes a "use it or everyone else loses it" system where if a customer fails to complete its project or fails to voluntarily relinquish its reservation, the rest of potential NEM customers are unable to use that capacity. This is inconsistent with section 2827 and the Legislature's intent to allow customers to use the entire NEM 1.0 capacity provided that there were enough interested customers by July 1, 2017.

B. Reservation Systems Should Be Adopted for PG&E and SDG&E

The PD declines to adopt reservation systems for PG&E and SDG&E. The PD determines that as both utilities are nearing their NEM 1.0 caps, the reservation system would not assist customers in planning for NEM eligible systems and would have no tangible benefits to customers. These conclusions unnecessarily focus on the aggregate NEM 1.0 capacity for each utility and ignore one of the biggest benefits of any reservation system: ensuring that commercial, agricultural and other non-residential customer classes have the same opportunity to participate in NEM 1.0 as residential customers, especially for those non-residential customers that have already submitted applications for NEM 1.0 systems. As recognized by CPUC staff and numerous parties, commercial and other non-residential NEM projects simply take longer from inception to completion than residential projects. Without a reservation system, non-residential projects currently in the pipeline with signed interconnection agreements will inevitably lose their spot in the NEM 1.0 line to future residential projects.

The timing differences between residential and public agency projects are especially acute and largely due to the complicated contracting process public agencies must undertake for these projects. For example, for customer-owned systems, agencies must follow a long, complicated procurement process. This may include contracting for design services, conducting public bidding and complying with other strict public contracting requirements.¹ Similarly, in a third party-owned model, agencies must conduct a noticed public hearing before awarding the power purchase agreement.² In addition, public projects must go through complicated environmental review processes under the California Environmental Quality Act.

A reservation system can correct the timing inequities by allowing public agencies that undertake good faith efforts to develop renewable facilities to reserve space under the NEM 1.0 cap. Without a reservation system, public projects will be in a race to an interconnection with small roof-top solar projects that can go from lease to interconnection in a matter of weeks or months. This race is unfair and will result in disproportionately more residential projects receiving space under the NEM 1.0 cap.

This system is especially unfair to public projects that are currently under development and would be entitled to space under the reservation system proposed for SCE. As explained in the NEM-PAC 2.0's comments, there are numerous public projects currently in the pipeline that were instituted years ago.³ In many cases, the public agency has already executed an interconnection agreement and is simply trying to complete construction.

Without a reservation system, these projects will likely take service under the successor tariff. While they are currently in the queue (and the PD assumes that they will take service under NEM 1.0), future residential projects that are not currently in the queue will be able to "beat" these public agencies to connection. This is unfair and establishing a reservation system in PG&E and SDG&E service areas would ensure that non-residential projects are not penalized for their longer timelines.

Accordingly, there are clear tangible benefits to establishing a reservation system for SDG&E and PG&E even if they are approaching their NEM caps. A reservation system provides equity among the different customer classes given their different project development

¹ See e.g., Public Contract Code § 20560 et seq.

² See Government Code § 4217.10 et seq.

³ See Opening Comments of NEM-PAC 2.0 on Reservation System, p. 2-3.

timelines. As such, the PD should be modified to require PG&E and SDG&E to develop reservation systems in the same manner as SCE.

III. CONCLUSION

The NEM-PAC 2.0 largely supports the Proposed Decision's (PD) reservation system for SCE customers, especially its application requirements for public agencies. However, the SCE system should be modified to include some mechanism to ensure that customers in SCE territory are able to use the full statutory allocation of NEM 1.0 megawatts.

For PG&E and SDG&E, NEM-PAC 2.0 disagrees with the PD's conclusion that a reservation system would have little utility given how close these utilities are to reaching their NEM cap. A reservation system provides equity between the customer classes and ensures that commercial, agricultural and other non-residential customers are not at a disadvantage when compared to residential projects.

Respectfully submitted,

/s/ JOSHUA NELSON

Joshua Nelson
for Best Best & Krieger LLP
Legal Counsel

Attorneys for
INLAND EMPIRE UTILITIES AGENCY
PADRE DAM MUNICIPAL WATER DISTRICT
RANCHO CALIFORNIA WATER DISTRICT
SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT
SWEETWATER AUTHORITY
TERRAVERDE RENEWABLE PARTNERS
VALLEY CENTER MUNICIPAL WATER
DISTRICT

Best Best & Krieger LLP
500 Capitol Mall, Suite 1700,
Sacramento, CA 95814
Phone: (916) 325-4000
Fax: (916) 325-4010
Email: joshua.nelson@bbklaw.com

Dated: June 6, 2016